which they discuss. These interpretations indicate the construction of the law which the Secretary of Labor and the Administrator believe to be correct and which will guide them in the performance of their duties under the Act unless and until they are otherwise directed by authoritative decisions of the courts or conclude, upon reexamination of an interpretation, that it is incorrect.

§ 780.6 Basic support for interpretations.

The ultimate decisions on interpretations of the Act are made by the courts (*Mitchell* v. *Zachry,* 362 U.S. 310; *Kirschbaum* v. *Walling,* 316 U.S. 517). Court decisions supporting interpretations contained in this bulletin are cited where it is believed they may be helpful. On matters which have not been determined by the courts, it is necessary for the Secretary of Labor and the Administrator to reach conclusions as to the meaning and the application of provisions of the law in order to carry out their responsibilities of administration and enforcement (*Skidmore* v. *Swift,* 323 U.S. 134). In order that these positions may be made known to persons who may be affected by them, official interpretations are issued by the Administrator on the advice of the Solicitor of Labor, as authorized by the Secretary (Reorg. Pl. 6 of 1950, 64 Stat. 1263; Gen. Ord. 45A, May 24, 1950; 15 FR 3290; Secretary's Order 13–71, May 4, 1971, FR; Secretary's Order 15–71, May 4, 1971, FR). Interpretative rules under the Act as amended in 1966 are also authorized by section 602 of the Fair Labor Standards Amendments of 1966 (80 Stat. 830), which provides: "On and after the date of the enactment of this Act the Secretary is authorized to promulgate necessary rules, regulations, or orders with regard to the amendments made by this Act." As included in the regulations in this part, these interpretations are believed to express the intent of the law as reflected in its provisions and as construed by the courts and evidenced by its legislative history. References to pertinent legislative history are made in this bulletin where it appears that they will contribute to a better understanding of the interpretations.

§ 780.7 Reliance on interpretations.

The interpretations of the law contained in this part are official interpretations which may be relied upon as provided in section 10 of the Portal-to-Portal Act of 1947. In addition, the Supreme Court has recognized that such interpretations of this Act "provide a practical guide to employers and employees as to how the office representing the public interest in its enforcement will seek to apply it" and "constitute a body of experience and informed judgment to which courts and litigants may properly resort for guidance." Further, as stated by the Court: "Good administration of the Act and good judicial administration alike require that the standards of public enforcement and those for determining private rights shall be at variance only where justified by very good reasons." (*Skidmore* v. *Swift,* 323 U.S. 134). Some of the interpretations in this part are interpretations of exemption provisions as they appeared in the original Act before amendment in 1949, 1961, and 1966, which have remained unchanged because they are consistent with the amendments. These interpretations may be said to have congressional sanction because "When Congress amended the Act in 1949 it provided that pre-1949 rulings and interpretations by the Administrator should remain in effect unless inconsistent with the statute as amended. 63 Stat. 920." (*Mitchell* v. *Kentucky Finance Co.,* 359 U.S. 290; accord, *Maneja* v. *Waialua,* 349 U.S. 254.)

§ 780.8 Interpretations made, continued, and superseded by this part.

On and after publication of this part 780 in the FEDERAL REGISTER, the interpretations contained therein shall be in effect and shall remain in effect until they are modified, rescinded, or withdrawn. This part supersedes and replaces the interpretations previously published in the FEDERAL REGISTER and Code of Federal Regulations as this part 780. Prior opinions, rulings, and interpretations and prior enforcement policies which are not inconsistent with the interpretations in this part or

with the Fair Labor Standards Act as amended by the Fair Labor Standards Amendments of 1966 are continued in effect; all other opinions, rulings, interpretations, and enforcement policies on the subjects discussed in the interpretations in this part are rescinded and withdrawn. The interpretations in this part provide statements of general principles applicable to the subjects discussed and illustrations of the application of these principles to situations that frequently arise. They do not and cannot refer specifically to every problem which may be met in the consideration of the exemptions discussed. The omission to discuss a particular problem in this part or in interpretations supplementing it should not be taken to indicate the adoption of any position by the Secretary of Labor or the Administrator with respect to such problem or to constitute an administrative interpretation or practice or enforcement policy. Questions on matters not fully covered by this bulletin may be addressed to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210, or to any Regional Office of the Division.

§ 780.9 Related exemptions are interpreted together.

The interpretations contained in the several subparts of this part 780 consider separately a number of exemptions which affect employees who perform activities in or connected with agriculture and its products. These exemptions deal with related subject matter and varying degrees of relationships between them were the subject of consideration in Congress before their enactment. Together they constitute an expression in some detail of existing Federal policy on the lines to be drawn in the industries connected with agriculture and agricultural products between those employees to whom the pay provisions of the Act are to be applied and those whose exclusion in whole or in part from the Act's requirements has been deemed justified. The courts have indicated that these exemptions, because of their relationship to one another, should be construed together insofar as possible so that they form a consistent whole. Consideration of the language and history of a related exemption or exemptions is helpful in ascertaining the intended scope and application of an exemption whose effect might otherwise not be clear (*Addison* v. *Holly Hill,* 322 U.S. 607; *Maneja* v. *Waialua,* 349 U.S. 254; *Bowie* v. *Gonzales* (C.A. 1), 117 F. 2d 11). In the interpretations of the several exemptions discussed in the various subparts of this part 780, effect has been given to these principles and each exemption has been considered in its relation to others in the group as well as to the combined effect of the group as a whole.

§ 780.10 Workweek standard in applying exemptions.

The workweek is the unit of time to be taken as the standard in determining the applicability of an exemption. An employee's workweek is a fixed and regularly recurring period of 168 hours—seven consecutive 24-hour periods. It need not coincide with the calendar week. If in any workweek an employee does only exempt work, he is exempt from the wage and hour provisions of the Act during that workweek, irrespective of the nature of his work in any other workweek or workweeks. An employee may thus be exempt in 1 workweek and not in the next. But the burden of effecting segregation between exempt and nonexempt work as between particular workweeks is upon the employer.

§ 780.11 Exempt and nonexempt work during the same workweek.

Where an employee in the same workweek performs work which is exempt under one section of the Act and also engages in work to which the Act applies but is not exempt under some other section of the Act, he is not exempt that week, and the wage and hour requirements of the Act are applicable (see *Mitchell* v. *Hunt,* 263 F. 2d 913; *Mitchell* v. *Maxfield,* 12 WH Cases 792 (S.D. Ohio), 29 Labor Cases 69, 781; *Jordan* v. *Stark Bros. Nurseries,* 45 F. Supp. 769; *McComb* v. *Puerto Rico Tobacco Marketing Co-op Ass'n,* 80 F. Supp. 953, affirmed 181 F. 2d 697; *Walling* v. *Peacock Corp.,* 58 F. Supp. 880–883). On the other hand, an employee who performs exempt activities during a workweek will not lose the exemption by virtue of the